

Appendix V: Public Comments

The NPS Plan is neither rule nor non-rule policy, but is considered guidance. As such, there is no requirement for public notice or hearings. In the interests of public participation, comments were sought from the public in a way that, it was hoped, would elicit as much review as possible.

A public comment period for the NPS Plan was conducted from September 23 to November 15, 1999, concurrent with EPA review of the Plan. Six hundred and thirty announcement letters were sent to interested parties or stakeholder groups, including environmental groups, county and city governments, Soil & Water Conservation Districts, the Nonpoint Source Task Force, partner agencies, persons or groups who had participated in the review of the 303(d) list, and others. The Plan was placed on the IDEM Watershed Management Section website for access to the general public, and those who requested a paper copy (5 persons) were supplied with one. Comments were requested to be submitted in writing or by email.

Wherever possible, the suggested additions and corrections were made to the Nonpoint Source Management Plan.

The following comments were received:

1. (Daniel J. Monroe) I would like to respond to the invitation to comment on the Final Draft of the NPS Pollution Management Plan for Indiana. I serve as a coordinator for the Quick Creek watershed in Jefferson and Scott counties. Thank you for providing this opportunity to review this plan and offer constructive input. As the NPS plan states, non-point sources of pollutants are difficult to regulate as they originate chiefly from privately held land. We can all agree that when soil is protected year-round by surface mulch and/or vegetative canopy, the rainfall runoff is not only greatly reduced but, carries far fewer nutrients, pesticides and sediment load as well. The stated goal in section 2.2, that is the NPS Program in Indiana, is that all waters of the State will meet designated uses for recreation, aquatic life support, fish and wildlife, and drinking water and that these uses will not be impaired by non-source pollutants after the year 2020. How can the individual land users of this State be convinced to apply the necessary conservation practices to achieve this objective in a sustainable way? Do existing programs of cost-share and other incentives provide lasting cultural changes in the way runoff is managed in the vast preponderance of our watershed acres? No-till technology, extended crop rotations that include sod or cover crops and the existence of viable structural practices that safely convey concentrated runoff to stable outlets have all been around for a number of years. What are the factors contributing to the reluctance of land users to utilize these resource-protecting practices? This needs to be addressed from this perspective in the Plan for it to realistically be successful. Permanent tax abatements for certified conservation cropland may prove effective for now and the long term. Addressing crop producers' complaints about the economics of residue management from a technical and policy standpoint probably offers the best solution to achieving a non-regulatory approach to effecting the desired change. Expanding regulation and imposing enforcement may be required as a last resort. There may be political and economic ramifications. If this perspective is present in the proposed Plan, it is not clear. It should be.

2. (Amy Lybarger) I scanned through the NPS Plan on the IDEM website. I have no additions or see any changes that need to be done.

3. (*Jim Sweeney, Izaak Walton League*) I understand the state of Indiana will soon be submitting a proposal to the US EPA on addressing Nonpoint Source (NPS) pollution in the waters of the state.

There has been a noticeable lack of attention to NPS pollution in Indiana and I hope the state will take this important issue seriously. In order to do this, a strong NPS program must address the lack of a coastal management program in Indiana.

The so-called "property rights" advocates in this part of the state brag about how they killed a Coastal Zone Management program. My feeling is the state dropped CZM planning because they could not stand the heat generated by a small but vociferous group of zealots willing to do or say anything to pad their resume a bit. The only times they generated a significant public turnout was when they inflamed parts of the public with lies, half-truths, and distortions.

The state is not enforcing parts of the Clean Water Act that apply to construction sites of a minimum size and sites located close to water bodies.

In an area as highly developed as northwest Indiana, it is all too common to find severe water quality problems resulting from the runoff of construction sites. It is my experience that the bulk of actions take to prevent runoff in the lakes and streams of the area are a waste of time and money. They are poorly constructed and then left to the elements with no oversight from the state. In fact, only two blocks from my home, contractors just rebuilt some of the banks on Turkey Creek near an expanded fire department parking lot. The banks are now completely exposed soils and are at a greater than 45% angle.

Another important issue that Indiana has been skirting for years is the development of Total maximum Daily Loads of pollutants for every impacted body of water in the state. Since every body of water in the state has some kind of pollution related prohibition, the time has come for the state to get serious about the TMDL's. In order to correct the problems facing these water bodies, the state must have a strong, enforceable, and enforced NPS pollution program.

I believe a large wetland restoration program in conjunction with different types of topsoil conservation projects, and an educated planning commission will be a significant part of the solutions we seek.

4. (*Tom Anderson, Save the Dunes Council*) Indiana has neglected NPS, the major source of water pollution in Indiana. In addition, Rule 5 (which addresses NPS for construction sites over 1 acre), under the Clean Water Act is rarely enforced in Indiana and there is little mention of it in the draft document. Also, the state has not committed to a Coastal Zone Management program, and has caved in to the property rights groups to stall consideration of CZMA, although Indiana is one of only 2 coastal states without CZM designation. The document makes it sound as if there has been no opposition, yet the property rights groups have stated many times that former Governor Bayh pulled the plug on the CZM program after the STOP group presented a petition to oppose CZM.

Indiana has also been very lax enforcing § 303 (d) of the federal Clean Water Act, which requires Total Maximum Daily Loads (TMDLs) be developed for impaired waterways. Indiana has just begun that process, which should look at NPS controls as part of the implementation procedure.

Please submit comments to IDEM asking for a stronger NPS program with real enforcement and attention to Rule 5 enforcement. In addition, the need to implement solutions, such as filter strips along all waterways should be a focus.

5. (*Charlotte Read, Save the Dunes Council*) After reviewing the enabling legislation for developing and implementing nonpoint source control plans (Section 319 of the Clean Water Act), we believe that Indiana's draft control plan falls short of what is required for an effective plan. As we read Section 319, the plan to be effective in controlling nonpoint source pollution, is to be implemented, and is to involve both public participation and intergovernmental coordination.

The September 23, 1999 notice of the availability of a draft "Nonpoint Source Pollution Management Plan" does not indicate that any general public meetings, public hearings, or public workshops have been employed by IDEM in developing this draft.

Indiana has neglected nonpoint source pollution which is recognized as a major source of water pollution in Indiana but which remains largely uncontrolled. Rule 5 which addresses nonpoint source pollution arising from construction activity on sites over one acre is rarely enforced, and its existence is barely mentioned in the draft report.

Although the draft report refers to the Coastal Zone Management Act as a control mechanism, Indiana has yet to adopt the program. We believe that CZM principles would provide effective controls for Indiana's Great Lakes Basin waters. CZM principles could also serve as a model for controlling nonpoint source pollution elsewhere in Indiana. Indiana has been very lax in enforcing Section 303(d) of the Clean Water Act which requires that total maximum daily loads (TMDLs) be developed for waterways identified as impaired. Nonpoint source loadings must be developed where they (whether coming from land or air) are identified as contributing to impairment. The draft plan's discussion of legal authorities makes it clear to the council that even a conservative interpretation of these authorities leads to the conclusion that legislative authority exists to regulate many sources of nonpoint source pollution. What is lacking is commitment.

The Save the Dunes Council believes that Indiana must adopt a plan that commits to a stronger nonpoint source pollution control program with real enforcement, increased attention to Rule 5 implementation, and effective strategies to reduce the contributions of agriculture to water pollution, such as filter strips along all waterways. Where nonpoint source pollution inputs coming from outside the state are identified as responsible in whole or in part for failure of Indiana's navigable waters to meet water quality standards, goals, or requirements of the Clean Water Act, Indiana must exercise its options under Section 319(g) by petitioning the Administrator of the U. S. Environmental Protection Agency (EPA) to convene a management conference of all the states which are contributing significant nonpoint source pollution to these waters.

We hope that the final report reflects these comments, and request that we receive a final copy of the management plan as approved by EPA. If EPA approval is withheld or conditional on changes in the plan, we wish to be informed of that as well.

6. (*Lynette Hartman*) These are my own comments on the NPS Management Plan, and I have not coordinated with the IDNR Division of Soil Conservation in writing of these ideas.

The following comments pertain to Section 4.2.4 Volunteer Monitoring Program.

This entire section assumes that IDEM has a Volunteer Monitoring Coordinator position. Will having this position written in the plan make it more likely that you will fill the position? The coordinator had many important responsibilities that are not currently being fulfilled. Examples of these responsibilities include administration of the Adopt-A-Wetland program, liaison with the DNR Hoosier Riverwatch program, and promotion of the use of volunteer data. Additional goals for this position that would help the volunteer monitoring community in Indiana could also include helping local groups develop water quality monitoring plans, helping them develop local partnerships for funding and technical support, and working with the volunteer groups to analyze their data and take appropriate action. These are just a few examples of the assistance not currently being provided to volunteer water monitoring groups through existing programs due to limited staff resources.

Section 4.2.4.1

Indiana Volunteer Lake Monitoring Program - The current sentence reads: "A handful of persons also take water samples for lab analysis...." I believe about forty individuals participate in the advanced volunteer lake monitoring program. Also, IDEM has provided 5 YSI oxygen probes that are located in 5 different Soil and Water Conservation District offices for use by citizens in the Indiana Volunteer Lake Monitoring Program to develop oxygen profiles.

CRAWDAD - The following sentence should be removed: "They are currently working on developing a computerized database to coordinate water quality data collection, analysis and distribution." Hoosier Riverwatch is developing this database, not CRAWDAD. You could add: "They have developed an educational video about Indiana Volunteer Water Quality Monitoring Programs. It will be available in all county Soil and Water Conservation District offices and possibly public libraries in Indiana's county seats."

Hoosier Riverwatch (not RIVERWATCH) - OK

Project INSITE - I don't understand why this group is included. This is only a one-week program for 40 students, not a pivotal partnership in Indiana's volunteer monitoring. I think it would make more sense to include Water Watchers of Indiana. They have received IDEM funding for many years and have trained many teachers statewide in stream assessment activities and interdisciplinary curriculum materials.

Another statewide program that provides hands-on curriculum materials for teachers relating to water resources and water quality is Indiana Project WET. This program is also partially-funded by a 319 grant.

The final sentence of this section reads: "The database will be maintained by IDEM (referring to the Riverwatch database)." I would feel more comfortable if this sentence read: "IDEM has offered to host and maintain the database."

Section 3.4 The Conservation Partnership

The paragraph that starts: "The Lake and River Enhancement program of IDNR..." also discusses Hoosier Riverwatch (not RiverWatch). It states: "...IDEM has agreed to assist in developing a database to store volunteer monitoring data." Again, I would prefer to see the language: offered to host and maintain the database.

One final sentence was a little unclear to me: "It is possible to offer Section 319 project grants to sponsors with only a 25% match requirement, because IDEM is able to use Division salaries as part of the 40% match required by the U.S. EPA for 319 money. Does Division refer to the IDNR Division of Soil Conservation?"

These are all my comments. Thank you for the opportunity to provide input.

7. (*April Ingle, Public Outreach Coordinator, St. Joseph River Watershed Initiative*) This letter is submitted as comment on the draft Nonpoint Source Pollution Management Plan, on behalf of the St. Joseph River Watershed Initiative. Upon review we would like to make comment on two points.

The first point is that we suggest that active watershed projects in the State be identified in the plan. We suggest a list be added to this document that includes active community based watershed projects along with a contact name. We see this as valuable information for EPA and those who will use this document in developing programs, resources, and priorities for watershed management in the State of Indiana.

Another item we suggest for the plan is inclusion of the criteria listed in Section 4.4.2 Watershed Restoration Feasibility Issues in the selection of watersheds targeted through the unified watershed Assessment. We feel that it is important to consider factors such as those listed in 4.4.2, like, Do We Know How to Fix It?, Can We Afford to Fix It?, Is There a Commitment To Fix It?, and How Do We Know When It's Fixed?, because they are significant factors in whether a watershed can be rehabilitated, not just that it is in need of rehabilitation. We also believe that significant uses of the watershed, like a public surface water supply, are very important in prioritizing watersheds and should be a significant factor used for selecting priorities.

We thank you for the opportunity to make comments on this draft NPS Pollution Management Plan, for IDEM's continued support of the Initiative, and ask you to feel free to contact us with any questions.

8. (*Daniel Ernst, IDNR Division of Forestry*) Section 5.1.4 is titled "State Forest Management Act" We do not have a State Forest Management Act as that term is known across the U.S. This section would be better titled "Forest Management". Change this in the index section too.

Within the same section only the Classified Forest Act is a legal authority item. The FIP, SIP, CRP, BMP and Stewardship programs are examples of very good incentive programs, but are not really legal mechanisms other than the owner agrees to maintain the practices for 10 years.

Same Section: If you leave in the BMP cost share program discussion, it now applies to priority 1 watersheds. (not just the Lake Monroe watershed) (thanks to a .319 grant)

Same section: Last sentence of the second paragraph- "The plan must be prepared (not approved) by a professional forester..."

Section 5.3.1 needs some clarifying wording. I would be glad to help.

Section 3.4, second paragraph lists forestry technical assistance as new. This should be deleted since forestry technical assistance in some form has been offered by DNR since at least the 1920's.

There is probably more to say if I had time to review the entire document collectively, rather than skim though only the forest related parts. The format is a lot different than I expected. In any regards, I hope this is helpful and look forward to the completion of this report.

9. (*William Hayden, Sierra Club*)

2.2 Water Quality Goals

IDEM should also be looking for streams that do not meet their Existing Uses as well as their Designated Uses.

The program does not have an adequate data gathering system for determining the biological health of tributary streams. The 303 (d) list of Impaired Waters does not contain the small streams that are impaired. For one, they are not assessed for biological health and secondly, probabilistic sampling is use which does not provide sufficient data to justify listing these smaller impaired streams.

IDEM's Office of Water Management needs to develop an adequate staff for water quality sampling of tributary streams that will sample for Dissolved Oxygen at 3 AM when it is lowest as well as for pesticides, chlorine, ammonia, nutrients, and Blue Green Algae. Streams that are impaired for these parameters should be placed on the 303(d) List of Impaired Streams.

IDEM needs to produce a map based on quality controlled date, watershed by watershed, that shows the biological as well as chemical impairments of each stream. This is essential if IDEM is to credibly maintain that Non Point Sources are the main cause of water pollution in the waters of the state and argue convincingly that significant resources need to be appropriated to eliminate or at least mitigate significantly the causes of non point pollution.

IDEM needs to be developing a plan with IDNR, the County Drainage Boards, and the organizations that represent agricultural interests to implement the planting of properly designed 100 feet wide vegetative buffers along all Indiana streams.

10. (*Susan Schultz, Project WET Coordinator*) After Reviewing the plan I did not see Project WET mentioned. It was funded by a 319 grant starting in 1997. The Program has reached a very high number of educators, resource personnel and others across the state. The numbers stated below are a low figure for a one time use of the program by participants, with the majority of the participants using the Project WET program on a higher usage than one time a year. This water education program meets the needs of teachers and others around the state, and was developed by a long list of participants at writing workshops across the country.

Below are a list of topics, numbers of participants and other information about Project WET. I hope that you will be able to include Project WET in this plan. If you need additional information please contact me or look at the Indiana Project WET homage.

http://iaswcd.org/projectwet_index.htm

Project WET is the Conservation Partnership in Action across the state. It is a part of the Project CLEAR education program, and utilized in many of the SWCD's and one of the Wildcat Creek personnel is a trained facilitator to conduct workshops, as well as a variety of others.

TOPIC areas covered with Project WET are:

Physical Properties, Water Cycle, Ground Water, Surface Water
(General, Watershed, Wetlands), Atmospheric (Weather, Climate), Health,
Uses (Historic, Current), Issues (Misc., Point, Non Point),
Water History, Management (General, Quality, Conservation and Career)

Also is Interdisciplinary Covering:

Math, Sciences - Earth, Physical, Life, Environmental, Ecology,
Health, Fine Arts, Language Arts, History, Anthropology, Geography,
Government, K-12 Curriculum and Activity Guide

72 Workshops held- with 1009 participants trained in Indiana
If each of the 1009 participants reach an average of 25
students/others = 25,225 receiving Water Education each year
This figure would actually be higher due to the fact that many
of the participants reach a larger number than 25.

Participants are:

K-12 teachers, scout leaders, resource personnel, pre-service teachers higher education staff,
home schoolers and others This is just from March 1998 to September 30, 1999 The figure will
grow each year As of November 5, 1999, there are 90 trained facilitators in Indiana to conduct the
6 hour workshops. They will reach an average of 800 to 1000 participants per year by 2001 the
total number of participants will be around 2000

2000×25 average = 50,000 yearly reached with Water Education This number will increase each
year with additional workshops being held.

11. (Peg and Don Mohar) It is well known that nonpoint source pollution is the largest source of pollution as well as probably the most difficult to deal with. I notice many construction sites in the area which create runoff which is largely uncontrolled. Water pollution from agricultural practices need to be addressed and rules enforced. The Great Lakes and all Indiana rivers and groundwater need to be clean and protected for future generations. Please work for a strong nonpoint source plan. Thank you for reading our views.

12. (Jane Dustin, Izaak Walton League) The Indiana Division Izaak Walton League comments on the Nonpoint Source Pollution Management plan must begin with the premise that all nonpoint sources of pollution are actually point sources (PS) waiting to be found; and that once NPS's are located they can be controlled or eliminated from polluting our waters. The basic Clean Water Act (CWA) principle of "elimination" or zero discharge is a paramount goal because once pollutants from all sources get into water, the task of removal is virtually impossible and often the damage is irreparable. This is true no matter how you label the pollutant.

We believe that GSI, GPS, along with numerous computer recording techniques and data compilation/processing make it practical and totally possible to locate and detail what are called NPS pollutants and their sources. It is a public right-to-know, as identifiable as TRIS.

We know it is possible. If GPS can be used to accomplish intricate total soil management for fertilizer applications, it can be used to pinpoint RUNOFF point sources of fertilizers and pesticides. It can pinpoint Ag tiles and drains, golf courses, stormwater, and CSO outfalls, drains and hidden pipes of all sorts - and more importantly, by locating pollution sources, we can identify what pollutants and volumes are spewing from them. Further, there are existing authorities to regulate.

The contradiction and impediments are societal, political, and are usually protecting special interests. A prime example of this is the Farm Bill of '95 pesticide use requirement which uses the CWA principle of self monitoring for farmers to report their on-land yearly pesticide use, while at the same time sequestering that data from public right-to-know or the evidence calling for or elimination of ever-growing misuse of pesticides. (We now realize the consequences of these chemicals go far beyond the runoff levels to ground and surface water supplies but seriously impact wildlife and human health and plant/animal gene pool through bioengineering). In the public interest, no monitoring, reporting, surveillance, or compliance data should be missed. Where is the report on T by 2000? The success and failure of Rule 5? Where are the sediment, nutrient, and biological criteria sets?

If we can call CSO's "regulatory" - and we have since CWA passed in 1972, though hardly realized yet - and we recently have at least half-heartedly assigned some stormwater sources into point source "regulatory" categories, all nine chapter headings of task force assignment should be reviewed and re-reviewed from the scenario of search and find, pinpoint and identify, put forward the total data collection - on the table with public participation and intergovernmental coordination.

Although much valuable information was gathered by the various task forces, the plan's "contents" listing fails to give page numbers locating Figures and Attachments (totaling about 150 pages of material) of a second volume - perhaps the most important papers.

It is incomprehensible that, at the turn of the millennium, and twenty-eight years into Clean Water Act implementation, that we are allowing agriculture to hide their degrading discharges behind the "nonpoint source pollution" mantra. For one, our surficial and groundwater "Drinking" supplies cannot (should not/must not) tolerate the pesticide, nutrient and sediment loadings from agriculture. Further, physical waterway deterioration continues via County Drainage Boards manipulating waters and wetlands to pass the loadings downstream faster.

We are further from sound filter strip and set-back agricultural protections than when the Soil Conservation service began 100 years ago and the stripping of riparian forest and native vegetative cover speeds on as fast as we speak - unabashedly followed by brush removal - chemical herbicides regularly applied as "maintenance" to water's edge and streambanks.

We have grave concern that enforcement of CWA Section 303(d) is sliding behind the 'nonpoint source pollution' mantra as well. Here is prime example of validity for our contention that where the pollutant(s) must be found and sourced and corrected, the Total Maximum Daily loading process proceeds without a point or nonpoint label. The process of a TMDL comes the closest, if done to restore IMPAIRED water, to the search and find, pinpoint and correct scenario mentioned above calling on our monitoring, mapping, and technical data skills.

This plan must be much more than a catch-all of issues we've not yet derived a mode of operandi for. We would add a few "watch outs" as follows: Watch out for endless acronyms. Watch out for "partnerships" in name only or with special interest agendas. Watch out for failures to perform public participation and intergovernmental coordination. Watch out for supposed cure-alls like "streambank stabilization"; plastic or non-natural fiber "geo-net fabric"; "Rip Rap" "Lunkers" (manipulations). Watch out for un-revised Best Management Practices (BMPs); press for preservation of natural systems; promote Conservation Easements.

Thank you for the extended comment period. Like the Lake Michigan Basin, the Maumee Basin (St. Joe River, Cedar Creek, Fish Creek, St Marys River and Maumee) would be well served by asking EPA to convene a management conference under Section 319 (g) interstate compliance with water quality standards, goals and requirements and endangered species act considerations as well.

13. (Walt Breitingner) As a member of the Valparaiso Lake Area Watershed Protection Group I ask that you do everything possible to strengthen rules and enforcement of rules protecting lakes in Indiana. Our group has worked for years to prevent or at least reduce construction run-off, E.coli contamination, pesticide pollution and other threats to the chain of lakes north of Valparaiso.

Despite continuous efforts on our part it seems the developers are winning the race to destroy much of the remaining wetlands surrounding our lakes. I hope you will aggressively support legislation that will slow their irresponsible destruction of these valuable resources.

14. (Gwen White, IDNR Lake & River Enhancement) Unless I missed it, I'm surprised that there are no references to Drainage Boards or drain maintenance activities. In the transportation section, there is some discussion about road ditch reshaping or realignment.

From a habitat perspective, there's probably no more drastic impact on streams and lakes than erosion resulting from ditch cleaning. Does 319 not interact with and encourage participation in NPS remediation by drainage boards?

Otherwise very comprehensive document.